
HOUSE BILL No. 1944

DIGEST OF INTRODUCED BILL

Citations Affected: IC 2-7-8; IC 3-9-4-16; IC 3-9.5; IC 3-10-1-19; IC 3-11; IC 3-14-1-3; IC 6-3-9.

Synopsis: Funding gubernatorial election campaigns. Establishes a system of public funding for candidates for governor who agree to limit contributions from private sources and expenditures to public funds. Provides for political parties to make limited contributions to candidates who participate in public funding. Provides that all expenditures by participating candidates, except for small expenditures, must be made with a public election debit card. Provides for increasing a participating candidate's funding to offset certain expenditures by nonparticipating opponents, independent expenditures, and issue advertising. Requires the election commission to impose civil penalties for violations of the campaign financing law. Authorizes the commission, and under certain circumstances, private persons to seek judicial remedies. Gives the attorney general powers to prosecute criminal violations of the statute. Establishes the public election campaign fund to finance the election campaigns of participating candidates. Imposes a tax of 5% on certain lobbying expenditures. Requires the amount of the tax to be deposited in the fund. Annually appropriates \$5,250,000 from the state general fund to the fund. Establishes a voluntary program under which individuals may designate \$2 to the fund on Indiana income tax returns.

Effective: July 1, 2001.

Budak, Becker, Ayres

January 17, 2001, read first time and referred to Committee on Elections and Apportionment.



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First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE BILL No. 1944

A BILL FOR AN ACT to amend the Indiana Code concerning elections and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 2-7-8 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2001]:
4 **Chapter 8. Lobbyist Expenditure Tax**
5 **Sec. 1. A tax is imposed on lobbyist expenditures reportable**
6 **under this article.**
7 **Sec. 2. The amount of the tax is the result of the computation in**
8 **STEP THREE of the following formula:**
9 **STEP ONE: Determine the amount of expenditures**
10 **reportable under this article for the period covered by the**
11 **report filed under IC 2-7-3-3. Round the amount determined**
12 **under this STEP to the nearest dollar.**
13 **STEP TWO: Subtract two thousand five hundred dollars**
14 **(\$2,500) from the amount determined in STEP ONE. If the**
15 **result is not greater than zero dollars (\$0), then the amount**
16 **determined under this STEP is considered to be zero dollars**
17 **(\$0).**



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STEP THREE: Multiply the amount determined under STEP TWO by five hundredths (.05). Round the amount determined under this STEP to the nearest dollar.

Sec. 3. (a) A lobbyist shall compute and pay the tax imposed by this chapter at the time the lobbyist files each semiannual report required by IC 2-7-3-3.

(b) For purposes of computing the tax due at the time the second semiannual report is filed under IC 2-7-3-3, a lobbyist shall compute the tax based only the expenditures made for the period not covered by the first semiannual report.

Sec. 4. The commission shall deposit money collected under this chapter in the public election campaign fund established by IC 3-9.5-8-1.

Sec. 5. The commission shall design the forms for reporting expenditures under IC 2-7-3-3 so that a lobbyist may compute the tax when completing the form.

Sec. 6. (a) If the commission finds, after a hearing conducted under IC 4-21.5-3, that a lobbyist has failed to pay the tax imposed by this chapter when due, the commission shall assess a civil penalty on the lobbyist equal to the greater of the following:

(1) Five hundred dollars (\$500).

(2) Ten percent (10%) of the amount of the tax owed.

(b) If the commission finds, after a hearing conducted under IC 4-21.5-3, that a lobbyist has failed to pay:

(1) the tax imposed under this chapter; and

(2) the amount of a civil penalty imposed under subsection (a); the commission shall issue an order under subsection (c).

(c) If the commission makes a finding under subsection (b), the commission shall do all of the following:

(1) Revoke the lobbyist's registration.

(2) Issue an order that prohibits the lobbyist from engaging in lobbying for two (2) years after the date of the order.

(3) Refer the matter to the attorney general for action under section 7 of this chapter.

Sec. 7. (a) If the commission refers a matter to the attorney general under section 6 of this chapter, the attorney general shall file an action in a court with jurisdiction against the lobbyist for collection of the civil penalty imposed under section 6 of this chapter unless the attorney general is able to collect the amount of the unpaid tax and the civil penalty from the lobbyist without filing an action.

(b) If the attorney general is required to file an action under this

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section, the court shall issue an order that the lobbyist pay all of the following:

(1) Court costs.

(2) The amount of the unpaid tax and the civil penalty.

(3) The costs documented by the commission for the hearings conducted under section 6 of this chapter.

(4) The costs documented by the attorney general for collection under this section.

(c) The amount of the civil penalty collected under this section shall be deposited in the public election campaign fund established by IC 3-9.5-8-1. The costs documented and recovered under subsection (b)(3) and (b)(4) shall be deposited in the state general fund.

SECTION 2. IC 3-9-4-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 16. (a) In addition to any other penalty imposed, a person who does any of the following is subject to a civil penalty under this section:

(1) Fails to file with the election division a report in the manner required under IC 3-9-5.

(2) Fails to file a statement of organization required under IC 3-9-1.

(3) Is a committee or a member of a committee who disburses or expends money or other property for any political purpose before the money or other property has passed through the hands of the treasurer of the committee.

(4) Makes a contribution other than to a committee subject to this article or to a person authorized by law or a committee to receive contributions on the committee's behalf.

(5) Is a corporation or labor organization that exceeds any of the limitations on contributions prescribed by IC 3-9-2-4.

(6) Makes a contribution in the name of another person.

(7) Accepts a contribution made by one (1) person in the name of another person.

(8) Is not the treasurer of a committee subject to this article, and pays any expenses of an election or a caucus except as authorized by this article.

(9) Commingles the funds of a committee with the personal funds of an officer, a member, or an associate of the committee.

(10) Wrongfully uses campaign contributions in violation of IC 3-9-3-4.

(11) Violates IC 3-9-2-12.

(b) This subsection applies to a person who is subject to a civil

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penalty under subsection (a)(1) or (a)(2) for filing a defective report or statement. If the commission determines that a person failed to file the amended report or statement of organization not later than noon five (5) days after being given notice under section 14 of this chapter, the commission may assess a civil penalty. The penalty is ten dollars (\$10) for each day the report is late after the expiration of the five (5) day period, not to exceed one hundred dollars (\$100) plus any investigative costs incurred and documented by the election division. The civil penalty limit under this subsection applies to each report separately.

(c) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for a delinquent report or statement. If the commission determines that a person failed to file the report or statement of organization by the deadline prescribed under this article, the commission shall assess a civil penalty. The penalty is fifty dollars (\$50) for each day the report or statement is late, with the afternoon of the final date for filing the report or statement being calculated as the first day. The civil penalty under this subsection may not exceed one thousand dollars (\$1,000) plus any investigative costs incurred and documented by the election division. The civil penalty limit under this subsection applies to each report separately.

(d) This subsection applies to a person who is subject to a civil penalty under subsection (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9), or (a)(10). If the commission determines that a person is subject to a civil penalty under subsection (a), the commission may assess a civil penalty of not more than one thousand dollars (\$1,000), plus any investigative costs incurred and documented by the election division.

(e) This subsection applies to a person who is subject to a civil penalty under subsection (a)(5). If the commission determines that a person is subject to a civil penalty under subsection (a)(5), the commission may assess a civil penalty of not more than three (3) times the amount of the contribution in excess of the limit prescribed by IC 3-9-2-4, plus any investigative costs incurred and documented by the election division.

(f) This subsection applies to a person who is subject to a civil penalty under subsection (a)(11). If the commission determines that a candidate or the candidate's committee has violated IC 3-9-2-12, the commission shall assess a civil penalty equal to the greater of the following, plus any investigative costs incurred and documented by the election division:

- (1) Two (2) times the amount of any contributions received.
- (2) One thousand dollars (\$1,000).

(g) All civil penalties collected under this section shall be deposited

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with the treasurer of state in the ~~campaign finance enforcement~~
~~account.~~ **public election campaign fund established by IC 3-9.5-8-1.**

(h) Proceedings of the commission under this section are subject to
 IC 4-21.5.

SECTION 3. IC 3-9.5 IS ADDED TO THE INDIANA CODE AS A
NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
2001]:

ARTICLE 9.5. PUBLICLY FUNDED ELECTION
CAMPAIGNS

Chapter 1. Application of Statutes

Sec. 1. This article applies only to a candidate for governor.

Sec. 2. To the extent not inconsistent with this article, IC 3-9
applies to a candidate covered by this article.

Chapter 2. Definitions

Sec. 1. The definitions in this chapter apply throughout this
article.

Sec. 2. "CPI" refers to the United States Bureau of Labor
Statistics Consumer Price Index for Indiana, all items, all urban
consumers, or its successor index.

Sec. 3. "Excess expenditure amount" means the amount of
money spent or obligated to be spent by a nonparticipating
candidate in excess of public election campaign funds allocated to
participating candidates.

Sec. 4. (a) "Express advocacy" means a communication that is
made through a broadcast medium, newspaper, magazine,
billboard, direct mail, or similar type of general public
communication or political advertising that does either of the
following:

(1) The communication or advertising advocates the election
or defeat of a clearly identified candidate, including a
communication that contains words such as "vote for",
"re-elect", "support", "cast your ballot for", "(name of
candidate) for (name of office)", "(name of candidate) in
(year)", "vote against", "defeat", "reject", or similar words.

(2) The communication contains campaign slogans or
individual words that in context can have no reasonable
meaning other than to recommend the election or defeat of
one (1) or more clearly identified candidates.

(b) The term does not include any of the following:

(1) A news story, a commentary, or an editorial by a
broadcasting station, a newspaper, a magazine, or another
publication, but only if the person disseminating the news

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1 story, commentary, or editorial is not owned by or affiliated
2 with a candidate or the candidate's committee.

3 (2) A regularly published newsletter or another
4 communication whose circulation is limited to:

5 (A) a person's members, employees, shareholders, other
6 affiliated individuals; and

7 (B) those who request or purchase the publication.

8 Sec. 5. "Fund" refers to the public election campaign fund
9 established by IC 3-9.5-8-1.

10 Sec. 6. "General campaign period" refers to the period:

11 (1) beginning the day after primary election day; and

12 (2) ending on general election day.

13 Sec. 7. (a) "Independent expenditure" means an expenditure
14 made by a person other than a candidate or a candidate's
15 committee that is made:

16 (1) for a communication that contains express advocacy; and

17 (2) without the participation of, cooperation of, or the
18 coordination with the candidate or the candidate's committee.

19 (b) For purposes of this section, an expenditure is "coordinated"
20 if the expenditure is made:

21 (1) for a communication or anything of value to influence the
22 outcome of an election; and

23 (2) by a person:

24 (A) in cooperation, consultation, or concert with, a
25 candidate, a candidate's committee, or an agent acting on
26 behalf of a candidate or a candidate's committee, at the
27 request or suggestion of, or under a particular
28 understanding with a candidate, a candidate's committee,
29 or an agent acting on behalf of a candidate or a candidate's
30 committee;

31 (B) for the dissemination, distribution, or republication, in
32 whole or in part, of a broadcast or a written, graphic, or
33 other form of campaign material prepared by a candidate,
34 a candidate's committee, or an agent of a candidate or a
35 candidate's committee; and

36 (C) based on specific information about the candidate's
37 plans, projects, or needs provided to the person making the
38 payment by the candidate or the candidate's agent who
39 provides the information with the intention of having the
40 payment made.

41 (c) The following expenditures are not considered independent
42 expenditures:

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(1) If the person making the expenditure, during the same election cycle in which the expenditure is made, is serving or has served as a member, employee, fundraiser, or agent of the candidate's committee in an executive or policy making position.

(2) If the person making the expenditure has:

(A) served in a formal policy or advisory position with the candidate's campaign; or

(B) participated in strategic or policy making discussions with the candidate's campaign relating to the candidate's pursuit of nomination or election;

in the same election cycle as the election cycle in which the expenditure is made.

(3) If the person making the expenditure:

(A) makes the expenditure for the professional services of another person; and

(B) in a nonministerial capacity, has provided or is providing campaign related services in the same election cycle to a candidate who seeks nomination or election to the office of governor.

Sec. 8. "Issue advertisement" means a communication made through a broadcasting station, a newspaper, a magazine, an outdoor advertising facility, a mailing, or another type of general public political advertising that:

(1) is not an independent expenditure or a contribution;

(2) costs, in the aggregate, one thousand dollars (\$1,000) or more;

(3) contains the name or likeness of one (1) or more candidates;

(4) is communicated during a primary or general campaign period; and

(5) recommends a position on a political issue.

Sec. 9. "Nonparticipating candidate" is a candidate who:

(1) is on the ballot; and

(2) has:

(A) chosen not to become a participating candidate; or

(B) applied but has not satisfied the requirements to become a participating candidate.

Sec. 10. "Participating candidate" means a candidate who qualifies for public election campaign funds.

Sec. 11. "Party candidate" refers to a candidate of a political party required to hold a primary election under IC 3-10-1-2.



1 **Sec. 12. "Primary campaign period" refers to the period:**

2 (1) beginning ninety (90) days before the primary election;

3 and

4 (2) ending on primary election day.

5 **Sec. 13. "Professional services" refers to polling, media advice,**
6 **direct mail, fundraising, campaign research or other professional**
7 **services that support a candidate's nomination or election to office.**

8 **Sec. 14. "Public election debit card" refers to the card issued by**
9 **the election division under IC 3-9.5-4-3 that permits a participating**
10 **candidate to draw on the line of credit issued to the candidate.**

11 **Sec. 15. "Qualifying contribution" refers to a contribution that**
12 **satisfies all of the following:**

13 (1) The amount of the contribution is not more than five
14 dollars (\$5).

15 (2) The contribution is made to a candidate seeking to become
16 a participating candidate.

17 (3) The contribution is made by a registered voter who resides
18 in Indiana.

19 (4) The contribution was received by the candidate during the
20 qualifying period.

21 (5) The contribution was not solicited by a person paid to
22 solicit contributions on behalf of the candidate.

23 **Sec. 16. "Qualifying period" refers to the period:**

24 (1) beginning one hundred eighty (180) days before the
25 primary election; and

26 (2) ending thirty (30) days before the primary election.

27 **Sec. 17. "Seed money contribution" refers to a contribution of**
28 **not more than one hundred dollars (\$100) made by an adult**
29 **individual during the seed money period.**

30 **Sec. 18. "Seed money period" refers to the period:**

31 (1) beginning the day following the previous general election
32 for that office; and

33 (2) ending on the last day of the qualifying period.

34 **Chapter 3. Candidate Eligibility for Public Election Campaign**
35 **Funding**

36 **Sec. 1. A candidate becomes a participating candidate for the**
37 **primary campaign period when the candidate does all of the**
38 **following:**

39 (1) Files a statement with the election division that the
40 candidate has complied, and will comply, with all of the
41 requirements of this article, including the requirement that
42 during the seed money period and the qualifying period, the

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candidate will not accept or spend private contributions from a source other than seed money contributions and qualifying contributions.

(2) Meets the following qualifying contribution requirements before the close of the qualifying period:

(A) Collects at least two thousand five hundred (2,500) qualifying contributions.

(B) Documents each qualifying contribution as required by IC 3-9.5-4-2.

Sec. 2. (a) A party candidate qualifies as a participating candidate for the general campaign period when the candidate does all of the following:

(1) Is nominated by a political party at a primary election.

(2) Files a declaration with the election division that the candidate has complied and will comply with all of the requirements of this article.

(3) Is a participating candidate for the primary campaign period.

(b) A candidate other than a party candidate qualifies as a participating candidate for the general campaign period when the candidate does all of the following:

(1) Before the primary election, meets all of the applicable requirements of this article and files a declaration with the election division that the candidate has fulfilled and will fulfill all of the requirements of a participating candidate.

(2) During the primary campaign period, fulfills all the requirements of a participating candidate under section 1 of this chapter.

Sec. 3. (a) This section applies to a candidate seeking to become a participating candidate.

(b) The only private contributions a candidate may accept before the end of the qualifying period are the following:

(1) Qualifying contributions.

(2) Seed money contributions.

(c) A candidate and a candidate's spouse may not each make more than a:

(1) seed money contribution to the candidate's campaign during the seed money contribution period; and

(2) qualifying contribution to the candidate's campaign during the qualifying period.

(d) The aggregate amount of seed money contributions accepted by a candidate seeking to become a participating candidate may

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not exceed fifty thousand dollars (\$50,000).

(e) The election division shall adjust for inflation under section 7 of this chapter the maximum amount of seed money contributions that a candidate may receive.

(f) Seed money may:

(1) be spent only during the qualifying period; and

(2) may not be spent during the primary campaign period or the general campaign period.

Sec. 4. (a) A candidate who wants to become a participating candidate shall do all of the following not later than forty-eight (48) hours after the close of the qualifying period:

(1) Fully disclose all the following to the election division:

(A) Seed money contributions.

(B) Expenditures.

(2) Pay the election division all seed money the candidate raised during the seed money period that exceeds the aggregate seed money limit. The election division shall deposit money received under this subdivision in the fund.

(3) Submit to the election division documentation concerning the required number of qualifying contributions.

(4) Pay to the election division the total of all qualifying contributions received by the candidate.

(5) Submit to the election division a declaration stating that the candidate has complied with all other requirements for the candidate to become a participating candidate.

(b) A candidate's application to become a participating candidate must be signed by the candidate and the treasurer of the candidate's committee under the penalties for perjury.

Sec. 5. (a) Not more than five (5) days after a candidate applies to become a participating candidate, the election division shall certify whether the candidate qualifies.

(b) A candidate may appeal an adverse decision of the election division made under subsection (a) to the commission under IC 4-21.5.

(c) A commission determination regarding a candidate's qualification is considered a final order under IC 4-21.5.

Sec. 6. A candidate who accepts public election campaign funds during the primary campaign period must comply with all the requirements of this article throughout the general campaign period regardless of whether the candidate later discontinues acceptance of public election campaign funds.

Sec. 7. (a) Not later than February 1 of the year before a year in

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which an election for governor is held, beginning in 2007, the election division shall adjust the seed money contribution limit that may be accepted by a candidate under section 3 of this chapter under STEP SIX of the following formula:

STEP ONE: Determine the percentage change between the CPI as last reported in the previous calendar year and the CPI as last reported four years (4) previously.

STEP TWO: Express the percentage change determined in STEP ONE as a three (3) digit decimal rounded to the nearest thousandth.

STEP THREE: Add one (1) to the decimal determined under STEP TWO.

STEP FOUR: Determine the limit currently in effect under this section.

STEP FIVE: Multiply the sum determined under STEP THREE by the number determined under STEP FOUR.

STEP SIX: Round the product determined in STEP FIVE up to the nearest even thousand dollars (\$1,000).

(b) The adjusted seed money contribution limit for a candidate seeking to become a participating candidate is the amount determined in STEP SIX of subsection (a).

(c) The election division shall publish the adjusted limits determined under this section in the February edition of the Indiana Register of the year before the year in which an election for governor is held, beginning in 2007.

Chapter 4. Contributions and Expenditures

Sec. 1. During the primary campaign period and the general campaign period, a participating candidate may not accept private contributions from any source other than the candidate's political party as provided in section 10 of this chapter.

Sec. 2. (a) This section applies to qualifying contributions and seed money contributions.

(b) A person making a qualifying contribution shall include all of the following information with the contribution:

- (1) The contributor's printed name.
- (2) The contributor's home address.
- (3) The contributor's telephone number.
- (4) The name of the candidate on whose behalf the contribution is made.
- (5) A statement that the contributor:
 - (A) understands that the contribution:
 - (i) is made to help the candidate become a participating



candidate; and

(ii) will be paid to the election division; and

(B) makes the contribution without coercion or anticipation of reimbursement.

(6) The contributor's signature.

(c) A person making a seed money contribution shall include all of the following information with the contribution:

(1) The contributor's printed name.

(2) The contributor's address.

(3) A statement that the contributor:

(A) understands the purpose of the contribution; and

(B) makes the contribution without coercion or anticipation of reimbursement.

(4) If the contribution is for at least twenty-five dollars (\$25), the following information:

(A) The contributor's ZIP code.

(B) The contributor's telephone number.

(C) The contributor's occupation.

(D) The name of the contributor's employer.

(5) The contributor's signature.

(d) A candidate or the candidate's committee may not accept a contribution if the information required by this section is not received.

(e) A candidate shall do the following with the information required by this section:

(1) Give a copy to the individual making the contribution.

(2) Keep a copy for the candidate's records.

(3) Provide a copy to the election division as required by this article or rules adopted under this article.

(f) A candidate may not receive a qualifying contribution or a seed money contribution from a person other than from the person identified by the information required by this section.

Sec. 3. (a) Whenever a candidate becomes a participating candidate, but not earlier than the beginning of the primary campaign period, the election division shall issue the following to the candidate:

(1) A public election debit card with a debit line that entitles the candidate and individuals authorized by the candidate to draw money from an account established in the fund for the candidate. The debit line may not exceed the amount of public election campaign funds allocated to the candidate, minus the amount of petty cash issued to the candidate under

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subdivision (2).

(2) A warrant drawn on the fund for use as petty cash under section 4 of this chapter in the amount of five thousand dollars (\$5,000).

(b) Except as provided in section 4 of this chapter, a participating candidate and the candidate's committee shall pay all campaign expenditures with the candidate's public election debit card issued under this section.

(c) Upon application by a participating candidate and subject to the rules of the commission, the election division may issue more than one (1) public election debit card to the candidate.

Sec. 4. (a) A participating candidate and the candidate's committee may pay campaign expenditures from a petty cash account held by the candidate's committee and established with money given to the candidate under section 3(a)(2) of this chapter.

(b) Petty cash expenditures may not exceed five hundred dollars (\$500).

(c) A participating candidate is entitled to reimbursement to the candidate's petty cash account from the fund by submitting the following information to the election division:

- (1) The date of the expenditure.
- (2) The amount of the expenditure.
- (3) The purpose of the expenditure.
- (4) A receipt documenting the expenditure.

(d) If a participating candidate submits the information under subsection (c), the election division shall do the following within five (5) working days after the date the election division receives the information:

- (1) Issue a warrant to the candidate's committee in the amount of total petty cash expenditures documented under subsection (c).
- (2) Deduct the amount of the warrant from the participating candidate's debit line under section 3 of this chapter.

Sec. 5. (a) During a primary campaign period, a participating candidate may make expenditures using only public election campaign funds allocated to the candidate for the primary campaign period.

(b) During a general campaign period, a participating candidate may make expenditures using only public election campaign funds allocated to the candidate for the general campaign period.

Sec. 6. (a) A participating candidate is entitled to receive public election campaign funds for the primary campaign period on the

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1 date the candidate is certified as a participating candidate.

2 (b) A qualifying candidate is entitled to receive public election
3 campaign funds for the general campaign period not later than
4 forty-eight (48) hours after certification of the primary election
5 results.

6 Sec. 7. (a) A participating candidate shall furnish complete
7 campaign finance records, including all records of seed money
8 contributions and qualifying contributions, to the election division
9 at times required by this article, with reports filed by the candidate
10 under IC 3-9-5, and on request of the election division.

11 (b) A participating candidate shall cooperate with an audit
12 required by the election division.

13 Sec. 8. (a) This section applies in addition to the requirements of
14 IC 3-9-3-2.5.

15 (b) All broadcast and print advertisements placed by a
16 participating candidate or the candidate's committee must include
17 a clear written or spoken statement indicating that the candidate
18 has approved of the content of the advertisement.

19 Sec. 9. Public election campaign funds may not be used:

20 (1) in violation of the law; or

21 (2) to repay personal, family, or business loans, expenditures,
22 or debts.

23 Sec. 10. (a) This article does not restrict the value of in-kind
24 contributions made by a regular party committee to a participating
25 candidate.

26 (b) Subject to this section, a participating candidate may receive
27 and spend cash contributions from a regular party committee.

28 (c) The amount of cash contributions that a participating
29 candidate receives from all regular party committees may not
30 exceed, in the aggregate, five percent (5%) of the total line of debit
31 given to the candidate (but excluding lines of debit given to a
32 candidate under subsection (e)).

33 (d) A participating candidate must:

34 (1) report to the election division the amount of cash
35 contributions given to the candidate by a regular party
36 committee; and

37 (2) pay that amount to the election division;
38 within five (5) working days after receiving the cash contribution.

39 (e) Upon receiving a report and payment under subsection (d),
40 the election division shall do the following:

41 (1) Deposit the amount of the payment in the fund.

42 (2) Increase the participating candidate's debit line by the

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amount that the cash contribution does not exceed the limit set by subsection (c).

(f) This article does not restrict a regular party committee from spending committee funds for any of the following:

- (1) Committee general operating expenses.
- (2) Conventions.
- (3) Nomination and endorsement of candidates.
- (4) Identifying, researching, and developing the committee's position on issues.
- (5) Party platform activities.
- (6) Voter registration activities that are unrelated to specific participating candidates.
- (7) Get out the vote drives that have no reference to a participating candidate.
- (8) Travel expenses for committee officers or employees who are not participating candidates.
- (9) Party development activities that are unrelated to a participating candidate.

Sec. 11. (a) As used in this section, "mass mailing" refers to a mailing of at least two hundred (200) identical or nearly identical pieces of mail sent by the governor to the voters, residents, or postal box holders of Indiana. The term includes substantially identical letters, newsletters, pamphlets, brochures, or other written material. The term does not include any of the following:

- (1) A mailing made in direct response to communications from persons or groups to whom the matter is mailed.
- (2) A mailing to federal, state, or local government officials.
- (3) News releases to the communications media.

(b) The governor may not make a mass mailing paid for from public funds between January 1 of an election year and the date of the general election for governor, unless the governor:

- (1) is ineligible to be a candidate for governor at the next election for governor; or
- (2) has made a public announcement that the governor will not be a candidate for reelection for governor.

Chapter 5. Allocation of Money to Participating Candidates

Sec. 1. The amount of public election campaign funds that a participating party candidate is entitled to receive for the primary campaign period for a contested primary election is seventy-five percent (75%) of the average candidate expenditures for the last two contested primary elections for governor, adjusted for inflation as provided under section 5 of this chapter.



1 **Sec. 2.** The amount of public election campaign funds that a
 2 participating candidate is entitled to receive for the general
 3 campaign period is seventy-five (75%) of the average candidate
 4 expenditures for the last two contested general elections for
 5 governor, adjusted for inflation as provided under section 5 of this
 6 chapter.

7 **Sec. 3.** Subject to section 4 of this chapter, a participating
 8 candidate is entitled to receive additional public elections campaign
 9 funds to match:

- 10 (1) an excess expenditure amount spent by a nonparticipating
- 11 candidate as provided in IC 3-9.5-6-1;
- 12 (2) an independent expenditure made in opposition to the
- 13 candidate or on behalf of an opposing candidate as provided
- 14 in IC 3-9.5-6-2; and
- 15 (3) the amount spent for any issue advertisements made in
- 16 opposition to the candidate or on behalf of an opposing
- 17 candidate as provided in IC 3-9.5-6-3.

18 **Sec. 4.** The maximum aggregate amount of additional funding
 19 a participating candidate may receive under section 3 of this
 20 chapter is two (2) times the full amount of public election campaign
 21 funds allocated to the participating candidate for the particular
 22 primary or general campaign period.

23 **Sec. 5. (a)** The election division shall adjust expenditure
 24 amounts for inflation under subsection (b) before it computes
 25 average expenditure amounts under section 1 or 2 of this chapter.

26 **(b)** The election division shall adjust expenditures for inflation
 27 under sections 1 and 2 of this chapter under STEP SIX of the
 28 following formula:

29 **STEP ONE:** Determine the expenditure amount for the
 30 relevant year.

31 **STEP TWO:** Determine the percentage change between the
 32 CPI as last reported in the relevant year and the CPI as most
 33 recently reported.

34 **STEP THREE:** Express the percentage change determined in
 35 STEP TWO as a three (3) digit decimal rounded to the nearest
 36 thousandth.

37 **STEP FOUR:** Add one (1) to the decimal determined under
 38 STEP THREE.

39 **STEP FIVE:** Multiply the sum determined under STEP
 40 FOUR by the expenditure amount determined under STEP
 41 ONE:

42 **STEP SIX:** Round the product determined under STEP FIVE

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to the nearest thousand dollar (\$1,000) amount.

(c) The election division shall determine average candidate expenditures under section 1 or 2 of this chapter by using the amount determined under STEP SIX of subsection (b).

Chapter 6. Independent Expenditures, Excess Expenditures of Nonparticipating Candidates, and Issue Advertisement Expenditures

Sec. 1. (a) If a nonparticipating candidate's total expenditures exceed the amount of public election campaign funds allocated to the candidate's opponents who are participating candidates, the nonparticipating candidate shall report to the election division the nonparticipating candidate's excess expenditures as follows:

(1) Except as provided in subdivision (2), each expenditure amount that, in the aggregate, is more than one thousand dollars (\$1,000) must be reported within forty-eight (48) hours of when the expenditure is made or is obligated to be made.

(2) If an expenditure is made during the last twenty (20) days before the end of the relevant campaign period, each expenditure amount that, in the aggregate, is more than five hundred dollars (\$500) must be reported within twenty-four (24) hours of when the expenditure is made or is obligated to be made.

(b) Upon receiving a report under subsection (a), the election division shall, subject to IC 3-9.5-5-4, immediately increase the debit line of each opposing participating candidate by an amount equal to the excess expenditure amount the nonparticipating candidate has spent or intends to spend.

Sec. 2. (a) A person who makes or is obligated to make independent expenditures during a primary or general campaign period shall report the expenditures to the election division as follows:

(1) If the independent expenditures, in the aggregate, exceed one thousand dollars (\$1,000), the person shall report each expenditure to the election division within forty-eight (48) hours after making or becoming obligated to make the expenditure.

(2) If an independent expenditure is made during the last twenty (20) days before the end of the relevant campaign period and if independent expenditures made by the person, in the aggregate, exceed five hundred dollars (\$500), the person shall report each expenditure within twenty-four (24)

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hours after making or becoming obligated to make the expenditure.

(b) Upon receiving a report under subsection (a), the election division shall, subject to IC 3-9.5-5-4, immediately increase the debit line of each participating candidate in opposition to whom the independent expenditure is made in an amount equal to the amount of the independent expenditure.

Sec. 3. (a) A person that makes or is obligated to make an expenditure to purchase an issue advertisement shall file a report with the election division not later than forty-eight (48) hours after making or becoming obligated to make the expenditure.

(b) The report required by subsection (a) must contain the following information:

(1) The name and address of the person making the expenditure.

(2) The amount of the expenditure.

(3) The purpose of the issue advertisement.

(c) Upon:

(1) receiving a report under this section that an issue advertisement has been made or is obligated to be made; and

(2) determining that an issue advertisement may reasonably be interpreted as having the effect of promoting the defeat of a participating candidate or the election of that candidate's opponent;

the election division shall, subject to IC 3-9.5-5-4, immediately increase the debit line of the participating candidate in an amount equal to the cost of the issue advertisement.

Sec. 4. A report required by this section must include a statement by the person making the report that the report is a true statement made under penalty of perjury.

Sec. 5. (a) A person may file a complaint with the commission if either of the following apply:

(1) The person believes that another person:

(A) is required to file a report under this chapter; and

(B) did not file a report.

(2) The person believes the statement required by section 4 of this chapter is false.

(b) The commission shall make a prompt determination about a complaint filed under this chapter under IC 4-21.5.

Chapter 7. Administration and Enforcement

Sec. 1. (a) The commission may adopt rules under IC 4-22-2 to implement this article.

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1 (b) The commission shall prescribe forms to implement this
2 article.

3 Sec. 2. After each primary and general election, the election
4 division shall conduct an audit of candidates to ensure compliance
5 with this article.

6 Sec. 3. The election division may conduct an audit or an
7 investigation based on anonymous complaints.

8 Sec. 4. (a) The commission may seek an injunction from a court
9 having jurisdiction if all of the following apply:

10 (1) There is a substantial likelihood that a violation of this
11 article has occurred or is about to occur.

12 (2) Failure to obtain an injunction will result in irreparable
13 harm to a person affected by the potential violation.

14 (3) Obtaining an injunction will not cause undue harm or
15 prejudice to the interest of other persons.

16 (4) The public interest is best served if an injunction is issued.

17 (b) The court shall issue the injunction if all the conditions listed
18 in subsection (a) have been demonstrated by a preponderance of
19 the evidence.

20 Sec. 5. (a) The commission shall refer possible criminal
21 violations of this article to the attorney general for prosecution.

22 (b) The attorney general has all of the powers of a prosecuting
23 attorney in matters referred under this section.

24 Sec. 6. (a) A person who believes that this article has been
25 violated may file a civil action in a court having jurisdiction
26 requesting appropriate remedies for the violation.

27 (b) Before a person files an action under this section, both of the
28 following must apply:

29 (1) The person must file a complaint with the commission
30 regarding the alleged violation.

31 (2) The commission fails to make a determination on the
32 complaint within thirty (30) days after the date of the filing of
33 the complaint.

34 (c) A party that prevails in an action under this section is
35 entitled to the following from the opposing parties:

36 (1) Reasonable attorney's fees.

37 (2) Court costs.

38 Sec. 7. (a) In addition to any other penalty imposed under law,
39 the commission may impose civil penalties under this section for
40 violations of this article.

41 (b) IC 4-21.5 applies to a commission proceeding under this
42 section.

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1 (c) An individual must pay any civil penalties assessed under
2 this section from the individual's personal money.

3 (d) A civil penalty collected under this section shall be deposited
4 in the fund.

5 (e) If the commission determines that a candidate has accepted
6 a contribution that the candidate is not authorized to accept by this
7 article, the commission shall assess a civil penalty equal to the sum
8 of:

9 (1) three (3) times the amount of the contribution accepted;
10 and

11 (2) investigative costs incurred and documented by the
12 election division.

13 (f) If the commission determines that a candidate has made
14 expenditures not authorized by this article or in a fashion not
15 authorized by this article, the commission shall assess a civil
16 penalty equal to the sum of:

17 (1) three (3) times the amount of the expenditure made; and

18 (2) investigative costs incurred and documented by the
19 election division.

20 (g) If the commission determines that an individual has not filed
21 a report or records:

22 (1) required by this article or rules adopted under this article;
23 and

24 (2) in the manner required by this article or rules adopted
25 under this article;

26 the commission shall determine whether to assess a civil penalty
27 and the amount of any civil penalty assessed against the individual
28 under IC 3-9-4-16.

29 (h) If the commission determines that a candidate or the
30 candidate's committee has placed an advertisement that does not
31 contain the statement required by IC 3-9.5-4-8, the commission
32 shall assess a civil penalty equal to the sum of:

33 (1) one thousand dollars (\$1,000); and

34 (2) investigative costs incurred and documented by the
35 election division.

36 (i) If the commission determines that a candidate has not paid
37 to the election division money that this article requires the
38 candidate to pay, the commission shall assess a civil penalty equal
39 to the sum of:

40 (1) three (3) times the amount of the amount required to be
41 paid; and

42 (2) investigative costs incurred and documented by the

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election division.

(j) If the commission determines that an individual has violated IC 3-9.5-4-11, the commission shall assess a civil penalty equal to the sum of:

- (1) three (3) times the amount of the mass mailing sent in violation of IC 3-9.5-4-11; and
- (2) investigative costs incurred and documented by the election division.

Sec. 8. (a) In addition to the civil penalties imposed under section 7 of this chapter, the commission may revoke a candidate's status as a participating candidate under IC 4-21.5 if the candidate violates this article.

(b) If the commission revokes a candidate's status as a participating candidate, the candidate must repay to the election division all public election campaign funds spent by the candidate.

Sec. 9. Not later than January 1 after an election for governor, the commission shall file a report with the legislative council containing the following information:

- (1) A detailed summary of all of the following:
 - (A) Seed money contributions.
 - (B) Qualifying contributions.
 - (C) The total of all debit lines given to participating candidates.
 - (D) The total of all expenditures made by participating candidates.
- (2) A summary and evaluation of commission and election division activities under this article.
- (3) Recommendations relating to administration, enforcement, and implementation of this article.
- (4) Other information the commission considers relevant.

Chapter 8. Public Election Campaign Fund

Sec. 1. The public election campaign fund is established for the following purposes:

- (1) To provide public financing for the election campaigns of certified participating candidates during primary and general campaign periods.
- (2) To pay the administrative and enforcement costs related to this article.

Sec. 2. The fund consists of the following:

- (1) Appropriations made by the general assembly.
- (2) Money from the general fund transferred under IC 6-3-9-6.



(3) Qualifying contributions required under IC 3-9.5-3-4 to be paid by candidates seeking to become participating candidates.

(4) Excess seed money contributions of candidates seeking to become participating candidates, under IC 3-9.5-3-4.

(5) Unused petty cash funds distributed to a participating candidate who does not remain a candidate during the primary or general campaign period for which petty cash funds were distributed.

(6) Civil penalties imposed by the commission under this title.

(7) Voluntary contributions made to the fund.

(8) Money deposited in the fund under IC 2-7-8-4.

(9) Interest required to be deposited in the fund under section 5 of this chapter.

Sec. 3. The fund shall be administered by the election division.

Sec. 4. The expenses of administering the fund shall be paid from money in the fund.

Sec. 5. The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

Sec. 6. Money in the fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 7. There is annually appropriated to the fund from the state general fund five million two hundred fifty thousand dollars (\$5,250,000) beginning July 1.

SECTION 4. IC 3-10-1-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 19. (a) The ballot for a primary election shall be printed in substantially the following form for all the offices for which candidates have qualified under IC 3-8:

OFFICIAL PRIMARY BALLOT

_____ Party

To vote for a person make a voting mark (X or H) on or in the box before the person's name in the proper column.

Vote for one only

Representative in Congress

☐ (1) AB _____

☐ (2) CD _____

☐ (3) EF _____

☐ (4) GH _____

(b) The offices with candidates for nomination shall be placed on the primary election ballot in the following order:



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- 1 (1) Federal and state offices:
- 2 (A) President of the United States.
- 3 (B) United States Senator.
- 4 (C) Governor.
- 5 (D) United States Representative.
- 6 (2) Legislative offices:
- 7 (A) State senator.
- 8 (B) State representative.
- 9 (3) Circuit offices and county judicial offices:
- 10 (A) Judge of the circuit court, and unless otherwise specified
- 11 under IC 33, with each division separate if there is more than
- 12 one (1) judge of the circuit court.
- 13 (B) Judge of the superior court, and unless otherwise specified
- 14 under IC 33, with each division separate if there is more than
- 15 one (1) judge of the superior court.
- 16 (C) Judge of the probate court.
- 17 (D) Judge of the county court, with each division separate, as
- 18 required by IC 33-10.5-4-2.
- 19 (E) Prosecuting attorney.
- 20 (F) Clerk of the circuit court.
- 21 (4) County offices:
- 22 (A) County auditor.
- 23 (B) County recorder.
- 24 (C) County treasurer.
- 25 (D) County sheriff.
- 26 (E) County coroner.
- 27 (F) County surveyor.
- 28 (G) County assessor.
- 29 (H) County commissioner.
- 30 (I) County council member.
- 31 (5) Township offices:
- 32 (A) Township assessor.
- 33 (B) Township trustee.
- 34 (C) Township board member.
- 35 (D) Judge of the small claims court.
- 36 (E) Constable of the small claims court.
- 37 (6) City offices:
- 38 (A) Mayor.
- 39 (B) Clerk or clerk-treasurer.
- 40 (C) Judge of the city court.
- 41 (D) City-county council member or common council member.
- 42 (7) Town offices:

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(A) Clerk-treasurer.

(B) Judge of the town court.

(C) Town council member.

(c) The political party offices with candidates for election shall be placed on the primary election ballot in the following order after the offices described in subsection (b):

(1) Precinct committeeman.

(2) State convention delegate.

(d) The following offices and public questions shall be placed on the primary election ballot in the following order after the offices described in subsection (c):

(1) School board offices to be elected at the primary election.

(2) Other local offices to be elected at the primary election.

(3) Local public questions.

(e) The offices and public questions described in subsection (d) shall be placed in a separate column on the ballot if voting is by paper ballot, ballot card voting system, or electronic voting system or in a separate column of ballot labels if voting is by voting machine.

(f) A public question shall be placed on the primary election ballot in the following form:

(The explanatory text for the public question,
if required by law.)

"Shall (insert public question)?"

☐ YES

☐ NO

(g) This subsection applies only to a candidate for governor. The following sentence shall be placed below the name of each participating candidate (as defined in IC 3-9.5-2-10) on the ballot: "This candidate is participating in Indiana's voluntary public financing program."

SECTION 5. IC 3-11-2-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 17. (a) This section applies only to a candidate for governor.**

(b) The following sentence shall be placed below the name of each participating candidate (as defined in IC 3-9.5-2-10) on the ballot: "This candidate is participating in Indiana's voluntary public financing program."

SECTION 6. IC 3-11-12-40 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 40. (a) This section applies only to a candidate for governor.**



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(b) The following sentence shall be placed below the name of each participating candidate (as defined in IC 3-9.5-2-10) on the ballot: "This candidate is participating in Indiana's voluntary public financing program."

SECTION 7. IC 3-11-13-45 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 45. (a) This section applies only to a candidate for governor.**

(b) The following sentence shall be placed below the name of each participating candidate (as defined in IC 3-9.5-2-10) on the ballot: "This candidate is participating in Indiana's voluntary public financing program."

SECTION 8. IC 3-11-14-35 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 35. (a) This section applies only to a candidate for governor.**

(b) The following sentence shall be placed below the name of each participating candidate (as defined in IC 3-9.5-2-10) on the ballot: "This candidate is participating in Indiana's voluntary public financing program."

SECTION 9. IC 3-14-1-3, AS AMENDED BY P.L.3-1997, SECTION 400, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 3. An individual, an organization, or a committee that circulates or publishes material in an election without:**

(1) the statement required under IC 3-9-3-2.5; or

(2) a statement required by IC 3-9.5-4-8;

commits a Class A misdemeanor.

SECTION 10. IC 6-3-9 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

Chapter 9. Donation of Income Tax to the Public Election Campaign Fund

Sec. 1. As used in this chapter, "fund" refers to the public election campaign fund established by IC 3-9.5-8-1.

Sec. 2. Instructions for the preparation of individual and joint tax forms must explain the purpose of the fund.

Sec. 3. (a) A resident individual who files a state adjusted gross income tax return for a particular taxable year may direct a donation of two dollars (\$2) to the fund on the individual's income tax form.

(b) A husband and wife may:

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1 (1) jointly direct a single donation of two dollars (\$2) to the
2 fund; or

3 (2) direct a donation of two dollars (\$2) each to the fund;
4 on the husband and wife's joint tax form.

5 Sec. 4. A resident individual may direct a donation even if the
6 individual is not entitled to a refund.

7 Sec. 5. Not later than July 1 of each year, the department shall
8 report to the auditor of state the total amount of donations that
9 have been directed under this chapter.

10 Sec. 6. The auditor of state shall transfer the amount reported
11 by the department under section 5 of this chapter from the state
12 general fund to the fund.

13 SECTION 11. [EFFECTIVE JULY 1, 2001] IC 6-3-9, as added by
14 this act, applies to the designation of donations to the public
15 election campaign fund established by IC 3-9.5-8-1, as added by
16 this act, by an individual or a husband and wife with respect to
17 income tax returns for taxable years that begin after December 31,
18 2001, and income tax returns filed after December 31, 2002.

19 SECTION 12. [EFFECTIVE JULY 1, 2001] The lobbyist
20 expenditure tax imposed by IC 2-7-8, as added by this act, applies
21 to expenditures made by a lobbyist after June 30, 2001, and for
22 semiannual reports filed with the Indiana lobby registration
23 commission after December 31, 2001.

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